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| 09/663,661 | 09/15/2000 | Thomas S. Abbott | | 2183 |

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| EXAMINER |
|---|
| CAPRON, AARON J |

| ART UNIT | PAPER NUMBER |
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| 3714 | 11 |

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Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 09/663,661 | ABBOTT, THOMAS S. | |
| | Examiner | Art Unit | |
| | Aaron J. Capron | 3714 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *17 March 2003* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-35* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-19 and 26-35* is/are rejected.

7)☒ Claim(s) *20-25* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

## DETAILED ACTION

This is a response to the Amendment received on March 17, 2003, in which claims 1-3, 8, 10-12, 21, 26-28 and 32 were amended. Claims 1-35 are pending.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 10-12 and 26-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Sakamoto (U.S. Patent No. 6,315,663).

Sakamoto discloses an electronic video based apparatus for simulating a rotating reel game comprising means for displaying to a player on a video screen a plurality of reels (Figure 1, 28:66-29:5), means to make the means for displaying the plurality of reels to appear to rotate the reels by successively projecting on the video screen images of a reel at differing locations on the video screen (Figure 1), means for displaying on the reels a plurality of full symbols of predetermined fixed symbols (3:62-64), for each of the plurality of reels, means to stop the apparent rotation of the reel, the means to stop controlled by the player (3:34-36), means for determining whether player has used the means to stop so that at least one of the pre-determined fixed symbols is stopped within a predetermined location on the video screen (Figure 4), and means for determining results of the play of game based on whether the player used the means to

stop whereby at least on of the predetermined fixed symbols is stopped within one of said predetermined locations (Figure 4).

Referring to claim 11, Sakamoto discloses an electronic video based apparatus wherein the means to stop allows a player at least one-tenth of second to use the means to stop the symbol (1:44-52)

Claims 26-27 correspond in scope to a method set forth for use of the video based apparatus listed in the claims above and are encompassed by use as set forth in the rejection above.

Claims 1-2 correspond in scope to a game apparatus set forth for use of the structure listed in claims above and are encompassed by use as set forth in the rejection above. Sakamoto discloses that at least two full symbols are displayed (Figures 3-4).

Referring to claims 3 and 12, Sakamoto discloses a bonus window that displays one of the plurality of predetermined fixed symbols (4:65-5:11).

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 4-9, 13-19 and 28-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sakamoto in view of Nolte et al. (U.S. Patent No. 6,165,070; hereafter "Nolte").

Referring to claim 4, Sakamoto discloses that the symbols are in a predetermined order, but does not disclose randomizing the predetermined order of the symbols. However, Nolte discloses an electronic video base apparatus wherein each of the plurality of reels has the same total number of predetermined fixed symbols that are randomized(Column 6, lines 30-63) and 1:46-49 AJC in order to change the game and make the game more difficult for more skilled players. One would be motivated to combine the references in order to alter Sakamoto in a way that would make the game more difficult for players and thus, be more rewarding to the casino. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the partial random sequence of Nolte into Sakamoto in order to change the game and make the game more difficult for more skilled players.

Referring to claim 5, Sakamoto and Nolte disclose an electronic video apparatus wherein the plurality of predetermined fixed symbols is a fixed amount and a fixed multiple number of the fixed amount of predetermined fixed symbols is randomly distributed on each of the reels, whereby each reel will have for each individual symbol that fixed multiple number of the individual symbols displayed on the reel whereby no symbol appears more or less frequently than any other symbol on said reel (Nolte: Master Iconic Database Table, Partial Randomized Iconic Database Table (A and B) and Proposal 1).

Referring to claim 6, Sakamoto and Nolte disclose that the there is no timeout for the rotating cylinders if the player does not depress the stop button. However, Nolte also discloses that prior art exists that contains a timeout that forces the player to select the stop button (Sakamoto 2:16-27 and Nolte Column 11, lines 1-10)

Referring to claim 7, Sakamoto and Nolte disclose an electronic video base apparatus wherein the fixed symbols are constrained to stop outside of the predetermined location at expiration of the fixed amount of time unless player has used the means to stop within the fixed amount of time determined by the timer to stop the reel (Sakamoto 1:61-2:9).

Referring to claim 8, Sakamoto and Nolte disclose an electronic video base apparatus wherein if a player is successful in using the means to stop a predetermined number of the fixed symbols matching the bonus symbol in the predetermined location, then player is awarded by a special bonus table (Column 12, lines 35-44).

Referring to claim 9, Sakamoto and Nolte disclose an electronic video base apparatus further comprising information relating to a player and the game (Column 19, Report Table), but fails to disclose a game counter to record how many games have been played. It is well known in the art to use counters to keep track of the number of games. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include games played into the Report Table because software could be easily manipulated to include the games played to further track the popularity of a game.

Claim 14 corresponds in scope to a method set forth for use of the structure listed in claims above and is encompassed by use as set forth in the rejection above.

Referring to claim 13, Sakamoto and Nolte disclose an electronic video base apparatus wherein each of the plurality of reels has the same total number of predetermined fixed symbols (Column 6, lines 46-63).

Referring to claims 15 and 16, Sakamoto and Nolte disclose an electronic video base apparatus wherein the fixed symbols are constrained to stop outside of the predetermined

location at expiration of the fixed amount of time unless player has used the means to stop within the fixed amount of time determined by the timer to stop the reel (Sakamoto 2:16-27).

Referring to claim 17, Sakamoto and Nolte disclose an electronic video base apparatus that comprises means for shuffling the random distribution of the symbols on each of the reels, the means for shuffling constrained to operate only between games and not during play of a game (Column 1, lines 54-58 and Column 6, lines 41-45).

Referring to claim 18, Sakamoto and Nolte disclose an electronic video base apparatus wherein the means for shuffling is constrained so that no more than two of any same symbol will be in succession on a reel but where the symbols are otherwise randomly distributed on each of the reels (Master Iconic Database Table, Partial Randomized Iconic Database Table (A and B) and Proposal 1).

Referring to claim 19, Sakamoto and Nolte disclose an electronic video base apparatus wherein raising levels (means for shuffling, time delay updates) is constrained to operate after a predetermined number of time (Column 14, lines 38-45 and the Programmer's Report Table), but not by the number of games. It is notoriously well known within the art to alter a game configuration after a predetermined number of games in order to limit a skilled player so the player cannot win a great majority of the games. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the number of games played into the method for level progression in order to limit a skilled player so the player cannot win a great majority of the games and still make the game challenging.

Claims 28-35 correspond in scope to a method set forth for use of the video based apparatus listed in claims 12-25 and are encompassed by use as set forth in the rejection above.

### *Allowable Subject Matter*

Claims 20-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

While the prior art teaches an electronic video based apparatus for simulating a rotating reel game. However, the prior art does not teach the fixed amount of time determined by the timer expires without a player using means to stop the reel, then the means for shuffling is activated for each of the reels but the symbol displayed in the bonus symbol remains the same until the player uses the means to stop the apparent rotation of the reel.

### *Response to Arguments*

Applicant's arguments with respect to claims 1-35 have been considered but are moot in view of the new ground(s) of rejection.

Further, it is noted that the Applicant's failed to reasonably traverse examiner's well known statements in their response, therefore, the object of the examiner's statements is taken as admitted prior art. *In re Chevenard*, 139 F.2d 711, 60 USPQ 239 (CCPA 1943).

### *Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron J. Capron whose telephone number is (703) 305-3520. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on (703) 308-1806. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

ajc
May 28, 2003

MARK SAGER
PRIMARY EXAMINER